



General Assembly

**Substitute Bill No. 5395**

February Session, 2012

\* \_\_\_\_HB05395JUD\_\_040212\_\_ \*

**AN ACT CONCERNING CUSTODY ORDERS FOR DEPLOYED  
MEMBERS OF THE ARMED FORCES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) (a) For the purposes of this  
2 section:

3 (1) "Armed forces" means the United States Army, Navy, Marine  
4 Corps, Coast Guard and Air Force and any reserve component thereof,  
5 including the Connecticut National Guard performing duty as  
6 provided in 32 USC;

7 (2) "Deploy" means military service in compliance with military  
8 orders received by a member of the armed forces to report for combat  
9 operations, contingency operations, peacekeeping operations, a remote  
10 tour of duty or other active duty service. Deployment includes a  
11 period during which a member of the armed forces remains subject to  
12 deployment orders and remains deployed on account of sickness,  
13 wounds or other lawful cause;

14 (3) "Deploying parent" means a parent who is a member of the  
15 armed forces and has been notified by military leadership that he or  
16 she will deploy or mobilize with the armed forces;

17 (4) "Mobilize" means the call-up of National Guard or Reserve

18 service members to extended active service. For purposes of this  
19 definition, "mobilization" does not include National Guard or Reserve  
20 annual training, inactive duty days, drill weekends, temporary duty or  
21 state active duty; and

22 (5) "Nondeploying parent" means a parent who has not been  
23 notified by military leadership that he or she will deploy or mobilize  
24 with the armed forces.

25 (b) If a deploying parent is required to be separated from a child of  
26 such parent during a deployment or mobilization, a court shall not  
27 enter a final order of custody or visitation modifying a final order of  
28 custody or visitation issued pursuant to section 46b-56, 46b-56a or 46b-  
29 61 of the general statutes until ninety days after the deployment or  
30 mobilization ends, unless such modification is agreed to by the  
31 deploying parent.

32 (c) If a parent who is a member of the armed forces has joint or sole  
33 custody of a child receives notice from military leadership that he or  
34 she will deploy or mobilize in the near future and will be required to  
35 be separated from such child due to such deployment or mobilization,  
36 then upon motion of such deploying parent or the nondeploying  
37 parent, a court may enter temporary orders of custody or visitation  
38 modifying final orders of custody or visitation during the period of  
39 such deployment or mobilization if: (1) The deployment or  
40 mobilization would have a material effect upon the deploying parent's  
41 ability to exercise parental rights, responsibilities or parent-child  
42 contact as set forth in the existing final orders of custody or visitation,  
43 and (2) modification is in the best interests of the child. In issuing such  
44 temporary modification orders, the court shall be guided by the  
45 provisions of the general statutes pertaining to custody and visitation.  
46 Motions for temporary modification because of deployment or  
47 mobilization shall be heard by the court as expeditiously as possible  
48 and shall be given priority for this purpose. All temporary  
49 modification orders shall include a specific transition plan to facilitate  
50 a return to the predeployment order over the shortest reasonable time

51 period after the deployment or mobilization and, taking into  
52 consideration the child's best interest. Temporary modification orders  
53 issued pursuant to this section shall designate the parent's parental  
54 rights, responsibilities and parent-child contact during a period of  
55 leave granted to the deploying parent, in the best interests of the child.  
56 Upon motion of such parent and in accordance with section 46b-59 of  
57 the general statutes, the court may delegate such parent's right of  
58 contact, or a portion thereof, to a family member, a person with whom  
59 such parent cohabits, or another person with a close and substantial  
60 relationship to the minor child or children for the duration of the  
61 deployment or mobilization, if it is in the child's best interests. Such  
62 delegated contact does not create separate rights to parent-child  
63 contact for a person other than a parent. The temporary modification  
64 orders shall expire upon the completion of the transition plan, and the  
65 prior final order issued pursuant to section 46b-56, 46b-56a or 46b-61 of  
66 the general statutes shall be in effect.

67 (d) A temporary court order modifying final orders of custody or  
68 visitation issued under subsection (c) of this section shall require that:  
69 (1) The nondeploying parent make the child reasonably available to  
70 the deploying parent when the deploying parent has leave; (2) the  
71 nondeploying parent facilitate opportunities for telephonic, electronic  
72 mail, and other such contact between the deploying parent and the  
73 child during deployment or mobilization; and (3) the deploying parent  
74 provide timely information regarding his or her leave schedule to the  
75 nondeploying parent. Changes in actual leave dates shall not be used  
76 by the nondeploying parent to prevent parent-child contact.

77 (e) A temporary court order modifying final orders of custody or  
78 visitation issued under subsection (c) of this section shall specify that  
79 deployment or mobilization is the basis for the order and shall be  
80 entered by the court as a temporary order. The order shall further  
81 require the nondeploying parent to provide the court and the  
82 deploying parent with thirty days' advance written notice of any  
83 change of address and any change of telephone number, unless a court  
84 has ordered that the deploying party is not entitled to this information.

85 (f) If pendente lite orders of custody or visitation are in place or if  
86 there are no existing orders of custody or visitation establishing the  
87 terms of parental rights and responsibilities or parent-child contact  
88 and it appears that deployment or mobilization of a parent who is a  
89 member of the armed forces is imminent, upon motion by either  
90 parent, the court shall expedite a hearing to establish temporary  
91 parental rights and responsibilities and parent-child contact to (1)  
92 ensure the deploying parent has access to the child, provided it is in  
93 the child's best interest; (2) ensure disclosure of information; (3) grant  
94 other rights and duties set forth herein; and (4) provide other  
95 appropriate relief. Any initial pleading filed to establish parental rights  
96 and responsibilities or parent-child contact with a child of a deploying  
97 parent shall be so identified at the time of filing by stating in the text of  
98 the pleading the specific facts related to deployment or mobilization.

99 Sec. 2. (NEW) (*Effective from passage*) (a) Nothing in section 1 of this  
100 act shall preclude the court from hearing a motion ninety days after  
101 the return of the deploying parent for permanent modification of final  
102 orders of custody and visitation issued pursuant to section 46b-56, 46b-  
103 56a or 46b-61 of the general statutes. The nondeploying parent shall  
104 bear the burden of showing that reentry of final orders of custody or  
105 visitation, issued pursuant to section 46b-56, 46b-56a or 46b-61 of the  
106 general statutes, in effect before the deployment or mobilization is no  
107 longer in the child's best interest.

108 (b) Nothing in this section and section 1 of this act shall impair the  
109 court's ability to hear an emergency motion to modify final orders of  
110 custody or visitation issued pursuant to section 46b-56, 46b-56a or 46b-  
111 61 of the general statutes and to grant an ex parte order on such  
112 motion prior to ninety days after the deployment or mobilization ends  
113 and upon the filing and service of a verified application for the same  
114 which alleges an immediate danger of harm to the child. Any such  
115 motion shall be heard as expeditiously as possible, but in no event  
116 more than fifteen days from the date of filing.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section

***Statement of Legislative Commissioners:***

In sections 1(c), 1(f) and 2(a), "or mobilization" was inserted after "deployment" for internal consistency.

**VA**            *Joint Favorable Subst. C/R*

JUD

**JUD**            *Joint Favorable Subst.-LCO*